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Ronald L. Grudziecki  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, VA 22313-1404

EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Offic Action Summary

<b>Application N .</b>	Application N .	
	10/022,738	EEN, HANS
<b>Examin r</b>	<b>Art Unit</b>	
Karin M. Reichle	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 20 December 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 December 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

### Pri rity under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

<p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u>.</p>	<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p>
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## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because the abstract is too long, i.e. should be no more than 150 words in length. Also, inferred terminology, i.e. "The invention relates to", and legal terminology, i.e. "said", should be avoided. On line 1, after "to", --an-- should be inserted. Also line 9 appears to be missing words. Correction is required. See MPEP § 608.01(b).

### ***Priority***

2. In paragraph [0001], "priority...2000" should be --benefit to U.S. Provisional Application Serial No. 60/256,488, filed on December 20, 2000--.

### ***Drawings***

3. The drawings are objected to because in Figure 1, there should be lines or arrows from numerals 1 and 2 to the structure they denote. The line from 9 should be totally dashed. The numerals 10 and 39 should be underlined. The numerals 45 and 46 should denote an edge. The lines from 13 and 14 should be dashed to denote underlying structure. Where is numeral 38? In Figure 2, the numeral 19 should be underlined. In Figure 3a, the numerals 10 and 39 should be underlined. Where is 19? The line from 17 and 13 should be dashed. With respect to Figures 3b,

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4, 5a and 5b, the objections of Figure 3a also apply to similar informalities in these Figures.

Additionally, in Figure 5a, 15c should be 15a and 25 should be underlined. In Figure 5b, 11 should be underlined and the line from 3 should extend all the way to the structure it denotes. In Figures 5a and 5b, why is the line from 29 dashed in 5a but not in 5b? A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the binder as claimed in claims 2-8, 10-12 and 14-16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### *Disclosure Objections*

5. The disclosure is objected to because of the following informalities: 1) In paragraphs [0003] and [0041], is the term “motions” correct? 2) In paragraph [0016], the trademark would be in better form using either all capital letters or the trademark symbol but not both. 3) In paragraph [0048], “15c” (all) should be --15a--.

Appropriate correction is required.

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***Claim Rejections - 35 USC § 112***

6. Claims 2-8, 10-12 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 2, the description of the leakage barrier is insufficient to perform the function of the last three lines. Also, a positive structural antecedent bases for "its adhesive or cohesive capacity" and "its fastening surface" should be defined. For example, on line 5, "its fastening surface" could be --the one of the first surface layer and the second surface layer its fastened to--. Is the fastening in claim 1 and the temporary fastening in claim 2 one and the same, i.e how many fastenings at a minimum are required and of what kind? This rejection also applies to the binder in claims 3-8, 10-12 and 14-16. In regard to claims 3-8, 10-12 and 14-16, a positive structural antecedent basis for "the binder" should be set forth. In claims 3 and 8, a positive structural antecedent basis for "its adhesive or cohesive capacity" should be defined. In claim 13, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 4, 6, 9, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Igaue et al '251.

The first surface layer is 11, the second surface layer is the outside portion of 17, the backing layer is 12, the absorption body is 13, the leakage barriers are the inside portions of 17, the first edge is 17 adjacent 16 and the second edge is 17 adjacent 22 and 42. With regard to the last four lines of claim 1, and claims 4, 6, 9 and 13, see Figure 19, adjacent 42 and col. 3, lines 35-42 and 47-50, col. 4, lines 49-52, col. 9, lines 19-27 and col. 1, line 11. The adhesive 42 bonds or fastens or secures the barriers. "Binder" as defined by the American Heritage Dictionary is "something used to bind" and "bind" is defined as "to tie or secure", "to hold or restrain with or as if with bonds". Therefore, the adhesive 42 is considered a "binder".

9. Claims 1, 3-7, 9 and 11-16 are rejected under 35 U.S.C. 102(e) as being anticipated by VanRijswijck et al., '488.

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The first surface layer is 38, the second surface layer is the outside portion of flap 762, the backing layer is 42, the absorbent body is 44, the leakage barriers are the inside portions of flaps 762, the first edge is 64, the second edge is 66 and the surface fastening is 78. See Figures 1, 7, col. 12, lines 51-54, col. 35, lines 56-64, col. 8, lines 5-11, and thus col. 12, line 18 of Lawson, '278, col. 18, line 1-col. 20, line 8, col. 29, line 39-col. 30, line 8, col. 1, line 15. With regard to claims 3-7, 11-12 and 14-16, the fastening means 78 or immobilizing agent is considered a "binder" because they bond or fasten or secure something. See again definitions in paragraph 8. In regard to claim 7, "fatty acids" include both saturated and unsaturated acids, see col. 30, lines 4-8 again.

10. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Sageser et al, '803.

The first surface layer is 38, the second surface layer is the inside portion of 42 adjacent 23 as seen in Figure 4 of the side panels 62, the backing layer is 42 coextensive with absorbent body 44, the leakage barriers are 62 as seen in Figure 7, the edges are also seen in Figure 7, the fastening in the temporary manner is 100, see paragraph bridging cols. 10-11 and col. 8, lines 39-58. Also note paragraph [0023] of the instant specification. The fastening in a temporary manner in Sageser is a frangible adhesive 100 which loses its ability to adhere or cohere when subjected to mechanical action during use. When broken, the previously adhered portion of the barrier comes away or raises from the surface it was adhered to. Therefore, the fastening 100 of Sageser is considered to be a "binder" as claimed.

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***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Igaue et al '251 in view of Ujimoto et al, '489.

The claim requires a binder constituted by an ultrasonic welding or a thermal bond whereas Igaue et al teaches an adhesive bond. However, see Ujimoto et al at Figures and col, 2. lines 34-36 and col. 3, lines 36-38, i.e. interchangeability of welding and thermal bonding for adhesive. To make the adhesive of Igaue et al ultrasonic welding or thermal bonding instead would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Ujimoto et al.

**Conclusion**

13. Claim 8 patentably distinguishes over the art. It is presumed for the purposes of this conclusion that the binder in this claim and the fastening and binder in claims 1 and 2 are one and the same, i.e. temporary fastens the one surface of the flap to a fastening surface but loses its capacity to fasten during use and the flap rises.

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14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other references show various cuffs and pleats fastened in various manners. The Materials Handbook is cited for the definition of "fatty acids".

15. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday -Thursday. The Official RightFAX number is 703-872-9302.

KMR

June 16, 2003

K.M. Reichle  
KMR  
[Redacted]